In re Application of: AKSELROD ET AL
Serial No.: 10/528,456
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Examiner: George C Manuel
Group Art Unit: 3762
Attorney Docket: 29429

> *There are two criteria for a proper requirement for restriction between patentably distinct inventions:*
>
> *(A) The inventions must be independent (see* MPEP § 802.01, § 806.06, § 808.01*) or distinct as claimed (see* MPEP § 806.05 - § 806.05(j)*); and*
>
> *(B) There would be a serious burden on the examiner if restriction is not required (see* MPEP §803.02, §808, *and* §808.02*).*

Moreover, MPEP § 803 (II) states that the Examiner must provide appropriate information related to indicate a serious search burden, or show that the inventions belong to different classes or to different fields for the restriction to be proper. In the present case, the examiner states that the methods in group I can be practiced by different means or devices than the apparatus or system of group II, but does not provide appropriate information related to the differences that would necessitate separate searches and thus be serious burden on the Examiner.

This line of reasoning is incorrect and compels the Applicants to conclude that the PTO imposed restriction requirement is improper. It is submitted that although claims 1-126 belong to a different category than claims 127-342, the limitations found the claims in group I are the same as the limitation found in the claims of group II.

Applicants therefore request reconsideration and withdrawal of the restriction requirement. Applicants also retain the right to pursue the inventions belonging to the non-elected groups in additional divisional applications that claim priority to the present application.

Respectfully submitted,

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